Kerala Gazette No. 14 dated 18th April 1969.

Section iv

PART I

GOVERNMENT OF KERALA

Revenue (G) Department

NOTIFICATION

G. O. (P) 636/68/RD. *Dated, Trivandrum 28th December* 1968.

Kerala Stamp (Prevention of Undervaluation of Instruments) Rules, 1968

S. R. O. No. 142/69.—In exercise of the powers conferred by sections 45 A and 69 of the Kerala Stamp Act 1959 (17 of 1959), the Government of Kerala hereby make the following rules, namely :—

RULES

1. *Short title.*—These rules may be called the Kerala Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

2. *Definitions.*—In these rules, unless the context otherwise requires —

(a) "Act" means the Kerala Stamp Act 1959 (17 of 1959).

(b) "authorised agent" means—

(i) a person holding a power of attorney authorising him to act on behalf of his principal; or

(ii) an agent empowered by written authority under the hand of his principal;

(c) "Form" means a form appended to these rules;

(d) "Registering Officer" means the Registering Officer appointed under the Indian Registration Act, 1908 (Central Act XVI of 1908);

(e) "section" means a section of the Act.

3. *Furnishing of statement of value of the property.*—(1) If an instrument relates to a number of items of property, the value shall be specified in respect of each item separately. For this purpose, the party executing the document shall attach a separate statement to the instrument, furnishing therein information about the various items of properties involved and his own assessment of the value of each of those items separately.

Explanation.—If an instrument covers lands comprising several survey numbers or sub-division numbers, the value shall be specified for the land covered by each survey number or sub-division number, as the case may be, separately.

(2) The Registering Officer shall, before registering an instrument, satisfy himself, that the party has attached with the instrument a statement giving the value for each of the properties separately as required by sub-rule (1).

(3) The Registering Officer may, for the purpose of finding out whether the value or the consideration has been correctly furnished in the instrument, make such enquiries as he may deem fit. He may elicit from the parties concerned any information bearing on the subject and call for and examine any records kept with any public officer or authority.

4. *Procedure on receipt of reference under section* 45A(1).—(1) A reference under sub-section (1) of section 45A from a Registering Officer, shall be accompanied by a statement in Form I. On receipt of the reference, the Collector shall issue a notice in Form II,—

(a) to every person by whom, and

(b) to every person in whose favour the instrument has been executed, informing him of the receipt of the reference and asking him to submit to him his representations, if any, in writing to show that the value of the property or the consideration has been truly set forth in the instrument, and also to produce all evidence that he has in support of his representation, within 21 days from the date of service of the notice.

(2) The Collector, may, if he thinks fit, record a statement from any person to whom a notice under sub-rule (1) has been issued.

(3) The Collector, may, for the purpose of his enquiry,—

(a) call for any information or record from any public office, officer or authority under the Government or a local authority; and

(b) examine and record statements from any member of the public, officer or authority under the Government or a local authority; and

(c) inspect the property after due notice, to the parties concerned.

(4) After considering the representations, if any, received from the person to whom notice under sub-rule (1) has been issued, and after examining the records and evidence before him, the Collector shall pass an order in writing provisionally determining the value of the properties or the consideration and the duty payable. The basis on which the provisional value or consideration was arrived at shall be clearly indicated in the order.

5. *Principles for determination of value or consideration.*—The Collector shall, as far as possible, have also regard to the following points in arriving at the provisional value or consideration, namely:—

(a) in the case of lands,—

(i) nature of the land or ground such as garden, wet and the like;

(ii) other factors, which influence the valuation of the land in question;

(iii) points, if any, mentioned by the parties to the instrument or any other person which require special consideration;

(iv) value of adjacent lands or lands in the vicinity;
(v) average yield from the land, nearness to road and market, level of land, transport facilities, facilities available for irrigation, such as tank, wells, etc;
(vi) the nature of crops raised on the land;

(b) in the case of house-sites,—

(i) the general value of house sites in the locality:
(ii) nearness to roads, railway station, bus route etc:
(iii) nearness to market, shops and the like;
(iv) amenities available in the place like public offices, hospitals and educational institutions;
(v) development activities, industrial improvements in the vicinity;
(vi) valuation of sites with reference to taxation records of the local authorities concerned, if any;
(vii) any other features having a special bearing on the valuation of the site: and
(viii) any special feature of the case represented by the parties.

(c) in the case of buildings,—

(i) type and structure;
(ii) locality in which constructed;
(iii) plinth area;
(iv) year of construction;
(v) kind of materials used;
(vi) rate of depreciation;
(vii) fluctuation in rates;
(viii) any other features that have a bearing on the value;
(ix) property tax with reference to taxation records of the local authority concerned;
(x) the purpose for which the building is being used and the income, if any, by way of rent per annum secured on the building; and
(xi) any special feature of the case represented by the parties;

(d) properties other than lands, house sites and buildings,—

(i) the nature and condition of the property;
(ii) purpose for which the property is being put to use; and
(iii) any other special features having a bearing on the valuation of the property.

6. *Procedure after arriving at provisional value or consideration.*—The Collector shall communicate a copy of his order provisionally determining the value of the properties or the consideration thereof and the duty payable, to all the persons who are liable to pay the duty along with a notice in Form III and call upon the parties to lodge their objections, if any, to such determination of the value or consideration within the time specified in the notice. The Collector shall also hear the parties on the date specified in the notice or on such other day as may be fixed by him.

7. *Final order determining the value or consideration.*—(1) The Collector shall, after considering the representations received in writing and those urged at the time of the hearing and after a careful consideration of all the relevant facts and evidence placed before him, pass an order, determining the value of the properties or the consideration thereof and the duty payable on the instrument, the time within which the deficient amount of stamp duty shall be paid, communicate the order to the parties and take steps to collect the deficient amount of stamp duty, if any.

(2) A copy of the order shall be communicated to the Registering Officer concerned for his record.

8. *Appearance through advocate or authorised agent.*—In an enquiry under these rules any party to an instrument may appear either in person or through an advocate or an authorised agent.

9. *Appeals.*—(1) An appeal under sub-section (4) of section 45A shall contain the following particulars, namely:—

(a) full name, father's name, or husband's name, occupation and address of the appellant;

(b) full name, father's name, or husband's name, occupation and address of every person executing the instrument;

(c) full name, father's name, or husband's name, occupation and address of every person claiming under the instrument;

(d) date and nature of the instrument;

(e) registration number, date of registration and name of office where the instrument was registered;

(f) name of town or village in which the property is situated together with the name of the taluk and the registration sub-district;

(g) number and date of the Collector's order which is appealed against;

(h) value of the property or the consideration as set forth in the instrument;

(i) value of the property or the consideration as determined by the Collector.

(2) Every appeal shall be accompanied by,—

(a) the original or certified copy of the order appealed against;

(b) the original or a certified copy of the instruments; and

(c) memo of grounds of appeal.

(3) Every appeal shall be presented in person or by an advocate or authorised agent or sent by registered post to the appellate authority having jurisdiction which shall endorse the date of receipt.

10. *Procedure for the disposal of appeals.*—(1) If the appellate authority admits the appeal, a date shall be fixed for hearing the appellant. The appellate authority shall issue a notice to the appellant informing him of the date on which and the time and place at which the appeal shall be heard. Such notice shall also state that if the appellant does not appear on the day

so fixed or any other day to which the hearing may be adjourned, the appeal shall be liable to be dismissed for default or disposed of on merits ex-parte.

(2) The appellate authority shall send a copy of the notice to the Collector together with a copy of the appeal and call for and obtain the records of the case from the Collector.

11. *Hearing of appeal.*—On the date fixed or on any other date to which the case may be adjourned, the appellate authority shall hear the appellant and receive any evidence adduced on his behalf. It shall also hear the person if any, appearing on behalf of the Collector and receive the evidence, if any, adduced in support of the Collector's order.

12. *Order in appeal.*—After considering all the evidence adduced and representations made on behalf of the appellant and the Collector and examining the records of the case, the appellate authority shall decide whether or not the value of the properties or the consideration as determined in the order of the Collector under sub-section (2) or sub-section (3) of section 45A is correct. In case, the appellate authority does not accept the valuation of the properties or the consideration determined by the Collector, it shall determine the correct value of the properties or the consideration and the duty payable on the instrument. The appellate authority shall embody its decision and the reasons therefor in an order and communicate it to the appellant, the Collector and the Registering Officer concerned.

13. *Return of records to Collector.*—As soon as possible after the order is passed, the appellate authority shall return the records of the Collector to that Officer.

14. *Rules of procedure.*—(1) The appellate authority may adjourn the hearing of the appeal from time to time, as it thinks fit.

(2) The appellate authority may, at any stage, call for any information, record or other evidence from the appellant or the Collector.

(3) In the appeal, the appellant may appear either in person or through an Advocate, or an authorised agent.

(4) In respect of matters not provided for in these rules, the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) relating to the procedure to be followed by the appellate authority in appeals against the orders of the Civil Court shall, as far as may be, apply to appeals under sub-section (4) of section 45A.

15. *Manner of service of notice and orders to the parties.*—Any notice under rule 4 or rule 6 and any order under rule 4 or rule 7 shall be served in the following manner, namely:—

(a) in the case of any company, society or association of individuals, whether incorporated or not, be served—

(i) on the secretary or any director or other principal officer of the company, society or association of individuals, as the case may be; or

(ii) by leaving it or sending it by registered post acknowledgement due, addressed to the company, society or association of individuals, as the case may be, at the registered office; or if there is no registered office, then at the place where the company, society or association of individuals, as the case may be, carries on business.

(b) in the case of any firm, be served,—

(i) upon any one or more of the partners;

(ii) at the principal place at which the partnership business is carried on, upon any person having control or management of the partnership business at the time of service;

(c) in the case of a family, be served upon the person in management of such family or of the property of such family, in the manner specified in clause (d);

(d) in the case of an individual person, be served—

(i) by delivering or tendering the notice or order to the person concerned or his counsel or authorised agent; or

(ii) by delivering or tendering the notice or order to some adult member of the family; or

(iii) by sending the notice or order to the persons concerned by registered post acknowledgement due; or

(iv) if none of the aforesaid modes of service is practicable, by affixing the notice or order in some conspicuous part of the last known place of residence or business of the person concerned.

By order of the Governor,
A. K. K. Nambiar,
Secretary.

FORM I

(*See* rule 4)

1. Document No. Year Book
2. Date of presentation and name and addition of presentant
3. Date of execution
4. Name and addition of executants
5. Name and additions of claimants
6. Nature and value
7. Stamp borne by the deed
8. Nature, value (or consideration) of the deed as in the opinion of the Registering Officer together with the stamp duty with which it has to be charged
9. Deficit duty
10. Remarks (Explain how the details in column 8 are arrived at)

Station :
Date :

Signature.

FORM II

(*See* rule 4)

Form of notice prescribed under rule 4 of the Kerala Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

To

Please take notice that under sub-section (1) of section 45A of the Kerala Stamp Act 1959 (17 of 1959), a reference has been received from the Registering Officer,....... ....for determination of the value of the properties/the consideration covered by an instrument registered as document No.........dated the...................and the duty payable on the above instrument. A copy of the reference is annexed.

2. You are hereby required to submit your representations, if any, in writing to the undersigned within 21 days from the date of service of this notice, to show that the value of the properties/the consideration has been truly and correctly set forth in the instrument. You may also produce all evidence in support of your representations within the time allowed.

3. If no representations are received within the time allowed, the matter will be disposed of on the basis of the facts available.

Office: Collector.

Station:
Date:

FORM III

(*See* rule 6)

Form of notice prescribed under rule 6 of the Kerala Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

To

Please take notice that in the matter of the reference under sub-section (I) of section 45A of the Kerala Stamp Act 1959 (17 of 1959) relating to the determination of the value and consideration of the properties covered by an instrument registered as Document No..........dated................received from the Registering Officer...........

I have passed an order provisionally determining the value of the properties/the consideration and the duty payable on the instrument. A copy of the order passed in the matter is annexed. The matter relating to the final determination of the value of the properties/the consideration and the duty payable on the instrument will be taken up for hearing on the

(date) . camp at a. m./p. m.

You are hereby required to lodge before the undersigned, before the date of the hearing, your objections and representations, if any, in writing as to why the value of the properties/the consideration and the duty as provisionally determined by me, should not be confirmed, to adduce oral or documentary evidence and be present at the hearing. If you fail to avail yourself of this opportunity of appearing before the undersigned or adducing such evidence, as is necessary, or producing the relevant documents, no further opportunity will be given and the matter will be disposed of on the basis of the facts available.

Collector.

Office:
Station:
Date: